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REFLEXIONS <sup>K</sup>  
ON  
GAMING;  
AND  
OBSERVATIONS  
ON THE  
LAWS relating thereto.

In which is considered,

The MISCHIEFS that are occasioned  
by GAMING-HOUSES being Encouraged  
by PERSONS of RANK  
and DISTINCTION.

AND  
A REMEDY proposed for the same.

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*Qui non prohibet cum prohibere potest, in  
culpa est.*

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3 Inst. 258.

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L O N D O N:

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T O

*Thomas Atwood, Esq;*

MAYOR of *BATH.*

*Mr. Mayor,*

**T**HAT Steadiness and Zeal  
you lately shewed in doing  
your Duty, calls for the Thanks of  
the Publick; and that you may be  
remembered by those that succeed  
you in your Office, give me Leave  
to



to bring the following Tract into  
the World under your Protection ;  
and to assure you, that I am one of  
those who shall always retain a  
grateful Sense of your Conduct, and  
subscribe myself,

*Your humble Servant,*

The AUTHOR.



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REFLECTIONS  
UPON  
GAMING, &c.

**I**T has long been the Admiration of Mankind, that a Stop has not been put to excessive and deceitful Gaming, and that the many good and wholesome Laws made for that Purpose, have not been effectual ; as this odious Practice every Day encreases, and by all good Men is lamented, I cannot think a few Hours mis-employed in laying before the Publick some few Considerations on this Head, and if from them it shall appear, that the Laws now in being, are sufficient to put a Stop to this Practice, or some new Hints may arise, whereby they may be made so, I shall have my Ends.

I would not have any think I am for hindering innocent Diversions, I not only think them lawful, but often expedient, whilst they are kept within their due Bounds ; but when that End is laid aside, and these Diversions are turned into cheating, playing wholly for  
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the Sake of Gain, playing for more than Men's Circumstances will admit of, Quarrelling, Swearing, and such like, all of which are the Consequence of high Gaming, they no longer continue to be Diversions, but become Nuisances, and every Lover of his Country (if nothing else can prevail) ought to do his Endeavour to put a Stop to them.

Many Laws have been made to hinder this odious Practice; that it is still carried on is plain. How comes this to pass? Every good Man must be pleased to see those in high Stations give Encouragement to Virtue, and punish Vice, because the one is the Support, and the other certainly the Ruin of a People; therefore the passing Laws of this Kind give Reputation to a Government; but it is not the passing Laws, or putting them in Execution now and then, that can answer this End; the inferior Part of Mankind must be convinced, that those who make and establish these Laws are in Earnest from their own Practice; the greatest Discouragement that can be given by Persons in high Stations, is not to be guilty of the Breach of these Laws themselves, or encourage others to be so: Have these great Men a real Mind to put a Stop to this Evil or not? If this be their sincere Design it is easily done, and I make no Doubt upon Consideration of the present Laws, they will be found sufficient, and be effectual

effectual for the Purpose for which they were designed.

But can it be expected that any Laws would answer, when we see an House notoriously known to be little better than a Nest of Thieves, almost daring Majesty itself, not far from the royal Palace, frequented by Persons in the highest Stations, whose Presence in all Places give a Countenance to the Place they frequent, and whose Example has a great Weight upon the Conduct of their Inferiors; I say, to see this cannot but give Encouragement to many to follow them thither, though frequently the Consequence has been not only the Ruin of their Fortunes in this World, whatever may be the Event of another.

Publick Report (*which sometimes speaks Truth*) has suggested, that Encouragement to the most notorious Practices of this Kind has been given in this Place, by Persons of the highest Rank; that those whose Stations and Fortunes in the World make them above those low and mean Practices, have at least, stood by and *looked on*, and thereby giving Countenance to excessive, I wish I could not say (deceitful Gaming). But surely, *without Proof*, no one will venture to surmise, — that any Persons in high Stations, who certainly advised His Majesty to issue



his royal Proclamation against Vice, who advised the passing the good and wholesome Laws against Gaming, and whose Business it is to put these Laws in Execution ; I say, surely no one can surmise, that such would put their Feet within the Doors of an House become so *infamous*; much less countenance the Practice, *by looking on*, or what is worse, be guilty themselves of excessive Gaming : Were this to be the Case, it would be far from putting a Stop to the Practice, it would rather prevent others from putting these Laws in Execution ; therefore the Publick *may be mistaken*.

But Reports of this Kind require Notice, and every great Person is in some Measure concerned, to convince Mankind that the Publick is mistaken ; if not, common Fame will be regarded, and the Notion of a Countenance of this Kind spread itself to that Degree, that all Laws for hindering such Practices will soon become ineffectual.

I have heard it said formerly of Politicians, that they never discouraged Practices of this Kind, because they frequently tended to the Support of their political Designs ; young Gentlemen of great Parts having been drawn in thereby to ruin their Fortunes, and been forced to become Slaves to the ambitious Designs of these great Men, though never so detrimental

detrimental to the Publick. — But as this *cannot be supposed* to be the Case of these our Days, one Reason for encouraging excessive Gaming vanishes.

It has likewise been said in former Days, that Ministers of State have countenanced Practices of this Kind, by condescending (I should have said demeaning themselves) to become Members of Clubs at Houses of this Kind, and have disposed of their best Preferments amongst those who have at those Places become their Acquaintance, and have had the Reputation of building their Fortunes upon Practices of this Kind; but if this be not the Case at this Time, no one will be encouraged to follow these Practices on that Account.

It has been often said that private Vices are publick Benefits, but the Contrary has always appeared, and in this Instance is fairly to be illustrated.—Let it be considered what a Loss doth the Publick receive when a Man of Parts and Genius shall employ these Talents in Gaming and Debauchery, his Time is not only thrown away, but those Faculties which God has blessed him with, instead of being employed for the Benefit of his Fellow-Creatures are made Use of to the Destruction of Society, and the Ruin not only of himself,  
but

but of Thousands perhaps drawn in by his pernicious Example.

It has been also suggested, that the Publick are no Losers by the Ruin of any one by Gaming, for tis but the Exchange of Wealth from one Hand to another; but here is a most palpable Mistake, for suppose the Wealth of a Man, of a great Genius, antient Family, and great Influence in his Country by Means of his Property, should by Gaming fall into the Hands of a Sharper or Pick-pocket, would not the Publick loose the Influence of this great Genius, this great Fortune, and instead of having it employed for the Benefit of Mankind, would it not be made a Fund for the Encouragement of Vice and promoting Disorder and Confusion.

But was not the Publick to be hurt, will not the Distresses of our Fellow-Creatures deserve our Consideration! Will not the Cries of the starving Wife and distressed Children be an Inducement to put a stop to this Evil? How many Women of antient Families and large Fortunes, who have married Gentlemen of good Estates have been reduced to Want almost a Morsel of Bread; will not this move our Pity?

Many more Considerations of this Kind may be added that relate to the Sufferings of  
the



the Publick, and private Families, all which would illustrate the pernicious Consequence of this abominable Practice, but if we add the Tortures, the Horrors and sometimes untimely Fates of the Gamesters themselves, it will certainly prevail upon every one to do his endeavour to root so great a Mischief from among us.

Let us take a View of the Gamester in the Height of his Diversions, (as he is pleased to call them) when perhaps his whole Fortune depends upon the Cast of a Dice; let us examine but his Mind, and see the Tortures that he suffers, the Curses, the Reproaches upon himself and his Friends, and then let any one judge of the Amusement.

Let us then view him upon his Bed, his Fortune lost, his Family distressed, his Rest gone, his House perhaps beset with Officers of Justice, and no Remedy, no more Money left to venture another Chance upon, the most enormous Practices must be his Resort, and by his Dispair, he is brought to submit to Crimes he never thought of committing.

These are temporal Evils, but if the Love of Virtue, Religion and Goodness be not entirely extinct in this Country, let us turn our Eyes towards the many Disorders that attend  
Religion

Religion on this Account, the many Blasphemies and Impieties, the many horrid Oaths and Imprecations in Places of this Kind, and then let us consider whether national Judgments may not be expected if Crimes of this Nature should go unpunished.

Having thus taken a short View of this great Evil, I shall now lay before you the Thoughts of our Ancestors on this Subject, and consider the several Laws that have been made to restrain it.

This Vice began to be felt so early as the twelfth Year of King *Richard* the Second \*, at which Time a Law was made for prohibiting unlawful Games, and enforced by a Statute made in the thirteenth of King *Henry* IV †. and also by a Statute in the seventh of King *Edward* IV ‡. *those who permitted Persons to play at unlawful Games in their Houses were to be imprisoned for three Years, and forfeit twenty Pounds*; but all these and other Laws that concern Gaming were repealed by a Statute made in the thirty-third Year of King *Henry* VIII ||. which Statute seems to be the first now in Being for that Purpose.

This Statute begins and strikes at the Root of this Evil, by punishing the Keepers of

\* 12 R. II. c. 6.

† 7 Ed. IV. c. 3.

‡ 13 H. IV. c. 6.

|| 33 H. VIII.

of Houses where Gaming is carried on with a Penalty of 40s. for each Day they shall permit Gaming in their Houses.—It likewise punishes Haunters of such Houses with a Penalty of 6s. 8 d. for every Offence. Justices of the Peace and other Magistrates by this Statute are impowered within Cities, Towns, and Boroughs, to enter the Houses and other Places of suspected Persons, and to commit the Keepers of such Houses and Persons found there to Prison until they enter into Recognizance not to offend again in the like Manner. It likewise directs, that these Magistrates shall monthly, at farthest, make Search, and punishes the Neglect with a Penalty of 40s. It likewise avoids the Benefit of the Lease of such Houses.

This Statute is now in being, and seems in itself sufficient to put a Stop to this iniquitous Practice; but as this Evil has encreased, so the Laws to prevent it have multiplied.

The next Statute I shall take Notice of, is a Statute made in the 16th of King Charles II \*; the Preamble of which recites, ‘ That  
 ‘ all lawful Games and Exercises should not  
 ‘ be used otherwise than as innocent and  
 ‘ moderate Recreations, and not as Trades or  
 ‘ Callings to gain a Living, or make unlaw-  
 ‘ ful Advantages thereby; and by the im-

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moderate

\* 16 C. II. c. 7



' moderate Use of them many Mischiefs and  
 ' Inconveniencies do arise, and are daily found,  
 ' to the maintaining and encouraging of sun-  
 ' dry idle, loose, and disorderly Persons, in  
 ' their dishonest, lewd, and dissolute Course  
 ' of Life, and to the circumventing, de-  
 ' ceiving, cousening, and debauching of the  
 ' younger Sort, both of the Nobility and  
 ' Gentry, and others, to the Loss of their  
 ' precious Time, and the utter Ruin of their  
 ' Estates and Fortunes, and withdrawing  
 ' them from noble and laudable Employ-  
 ' ments and Exercises.

Can a Grievance be more pathetically  
 expressed? can it be more truly set forth?  
 can any Thing more be said to excite the  
 Legislature to put a Stop to it? Can there be  
 a greater Reason for a Law than this?

It begins with punishing unfair Play in all  
 Persons, of *what Degree or Quality what-  
 ever* \*, with a Forfeiture of treble the Value of  
 their unlawful Gains, to be recovered by  
 Action of Debt, Bill, Plaint, or Information  
 in the Courts of *Westminster*, with treble  
 Costs. — One Moiety of this Penalty is  
 given to the King, and the other to the  
 Loser, if he thinks proper to sue for it; and  
 in case he shall not think proper so to do,  
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\* Sect. ii.

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any other Person hath a Right to it, who will sue for the same.

This is a Punishment for unfair Play, and it seems not improbable for a Man who has been cheated, to take this Revenge upon the Cheater. The Remedy is easy, nor can there be any Difficulty attend the Means prescribed, especially as he is farther encouraged by having his Cost as well as his Loss trebled.

But this Law doth not rest here, it provides against excessive Gaming, by enacting, *that Persons losing above 100l. at one Time upon Tick or Credit, shall not be liable to pay it; and it voids all Securities of any Nature or Kind whatever, and inflicts a Penalty of treble the Value of such Sum lost above 100l. to be sued for and recovered as aforesaid, either by the Loser or any other Person whatsoever with treble Costs.*

This Act it is to be observed has made no Distinction of Persons; but in the first Part has put a Negative upon all Distinctions; the Penalties are severe but just, the Encouragement to prosecute seems properly calculated, the injured Person hath an Opportunity of Revenge, which in Cases of less Consequence, Mankind is too apt to be fond of; but notwithstanding all the Care the Legislature had taken, it was found in later Times to be ineffectual; the Grievance increased, it called for farther Care from the Legislature, and

we find in the 9th Year of the late Queen Ann \*, another Act was made for this Purpose.

*This Act voids all Securities for any Sum of Money, &c. won by Gaming; and enacts, where Persons shall encumber their real Estates with Gaming Debts, the Securities shall be void, and the Estates enure to the Use of such as would be entitled to them at their Deaths, and that all Deeds and Conveyances to prevent their so enuring shall be void.*

A very necessary Provision to prevent excessive Gaming; a Provision that one would think should terrify Offenders from a Practice so pernicious; an Encouragement to the disappointed Heir to put it in Execution, and due Care taken to make it effectual.

*This Act has further proceeded to explain what is meant by excessive Gaming, by providing, that if any one loses more than ten Pounds at one Time he, or any other Person may recover it again from the Winner with Cost; and in case the Loser shall not sue for the same within a certain Time, any other Person may sue for the same, and treble the Value thereof with Cost; one Moiety to the Use of the Person suing, and the other to the Use of the Poor of the Parish where the Offence was committed; and the Winner is obliged upon Oath, to discover the Sum won.*

*This*

\* 9th Ann, c. 14.



This concerns what is called fair Play, it leaves Mankind at Liberty to divert himself, which may as well be done for any Sum under ten Pounds as above it; and here it is to be observed, that the Winner himself has not the least Hopes of retaining his unlawful Gains, which one would think should be sufficient to prevent his being guilty of so notorious an Offence.

This Law has also more justly provided against fraudulent Gaming, by enacting, *that in case any one shall be convicted of winning by Fraud any Valuable whatever, or above 10l. at any one Time, that he shall forfeit five Times the Value, and if by Fraud, be deemed infamous, and suffer corporal Punishment as in Cases of Perjury.*

This Clause is so plain that it wants no Explanation, and whoever thinks proper to prosecute doth his Country an eminent Piece of Service.

*Persons who have no other Support than Gaming, are under the Cognizance of the Magistrates, who, if they suspect any to be such, may require them to make it appear, that the principal Part of their Expences is not maintained by Gaming, or give Securities for their Behaviour, and if they play for more than 20s. afterward, they forfeit their Recognizance.*

There

There can be no Provision more proper made against one of the greatest of the ill Consequences of Gaming, than this last mentioned, and the Magistrates are to blame if it be not put in Execution, for who are more to be feared in this Case, than the necessitous, who too often make good the Maxim, *Necessitas cogit ad turpia*.

This Statute has made Attempt to prevent another Inconvenience, that is to hinder Quarrels on Account of Gaming, by enacting, *that any one assaulting, challenging, fighting with another, or provoking to fight, on Account of Gaming, and being convicted on Indictment or Information, shall forfeit and lose all his Goods, Chattles, and personal Estate whatever, and suffer two Years Imprisonment.*

The Mischiefs that happen upon this pernicious Account, are frequently shocking, and Murder has often been the Consequence. Could the Legislature have taken too much Care to prevent it?

The Conclusion of this Statute is a Provision, *that it shall not hinder Gaming within the Palaces where the Sovereign shall actually reside, during the Time of such a Residence there, for ready Money only.*

Under

Under the Eye of the Sovereign it is to be hoped, that no fraudulent or excessive Gaming will be carried on, nor could it be attended with that Inconvenience that it is liable to in other Places ; the Rank, the Circumstances of Persons admitted within the Royal Palaces may admit of more expensive Diversions than others can do ; but I must not omit to observe, how strictly this Clause is penned, that it is confined to the Palace of actual Residence, and during such Residence only ; otherwise the Palaces of the Crown cannot give the least Protection to the carrying on Practices so detrimental to the Publick.

I have now taken Notice of several Statutes which appear sufficient to restrain this Vice, but Experience has shewn, that neither Penalties on Offenders or the Rewards to the Prosecutors could effectually answer the Design of the Legislature ; the Evil daily encreased, and called out again for Redress ; Places of Resort for the Sake of Recovery of Health, became Dens of Thieves and Robbers, and Recovery from Disease of Body was frequently attended with impoverishing of the Family, if not with Loss of every Comfort and Satisfaction of the Mind.—Almost a total Idleness seized the common People, and from the Example of their Superiors expensive Diversions, engrossed almost



most wholly that Time, and consumed that small Substance that ought to have been employed for the Support of their Families ; every publick House almost throughout the Kingdom was supported either by an Horfe-Race or other expensive Diversions: The Legislature in the second Year of his present Majesty's Reign, thought proper to enforce the Statute of 33 of *Henry VIII.* by enabling the Justices of the Peace to require Sureties of Persons frequenting Gaming-houses, whereas before they were only empowered to take their own Recognizances ; but this was of little Avail, for within a few Years in the City of *London*, and in other Places of publick Resort, new Inventions of Gaming, were carried on, and these joined to others of the like Kind which had long been known amongst us, were found not only to prejudice the fair Trader, but to discourage Industry, and end in the Ruin of Thousands.

About the Year 1738, Lotteries for Plate, and other Valuables in Defiance of Law, were publicly advertised. —Gaming-houses encreased, the Games of the Ace of Hearts and other deceitful Games publicly carried on at Places of publick Resort, and excessive were the Games of Hazard and others ; but they were generally cried out against as Nufances. To prevent this Mischief, now become national, the Legislature in the twelfth Year

Year of His present Majesty's Reign passed an Act intituled, an *Act for the more effectually preventing of excessive and deceitful Gaming*\*.

This Act begins with making effectual the Laws in being for suppressing Lotteries and Sales, a Practice most manifestly detrimental both to the Publick in general, and almost every private Family near the Places where they were carried on; for the Tradesman who rented a Shop, and carried on his Business in a fair and open Way, lost the Sale of his Goods; the idle Servant misemployed his Time, and frequently purloined his Master's Money or Effects to enable him to adventure in these Undertakings where he was almost sure to be defrauded; and many other Servants in private Families drawn in to defraud their Masters on the same Account. It therefore enacts, that after the 24th June, 1739, every Person or Persons who shall set up, continue, or keep any Office or Place under the Denomination of a Sale or Sales of Houses, &c. by Way of Lottery, or by Lots, Tickets, Numbers, or Figures, Cards or Dice; or shall make, or print, advertise, or publish, or cause to be made, printed, &c. Proposals, or Schemes for advancing small sums of Money by several Persons, amounting to large Sums, to be divided among them by Chance of Prizes in some publick Lottery established, or allowed by Act of Parliament;

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or

\* 12 Geo. II c. 28.

*or shall deliver out, or cause to be delivered out Tickets to the Persons advancing such Sums, to entitle them to the Shares of such Sums so advanced, according to such Proposals or Schemes; or shall expose to Sale any Houses, &c. by any Game, Method, or Device depending upon, or to determine by any Lot, or Drawing, whether it be out of a Box, or Wheel, or by Cards, or Dice, or by any Machine, Engine, or Device of Chance of any Kind whatever, such Person or Persons upon being convicted thereof before any one Justice of the Peace for any County, &c. upon the Oath of one or more credible Witness, or Witnesses, or Confession of the Party, shall forfeit the Sum of 200 l. one Third, after deducting Charges of Prosecution, to the Informer, and the Remainder to the Poor of the Parish, excepting for Offences committed within the City of Bath, where the remaining two Thirds shall go and be applied to the Use and Benefit of the Poor residing within the Hospital, or Infirmary lately erected there for the Benefit of poor Persons resorting to the said City, for the Benefit of the mineral Waters there.*

This Clause it is to be observed, punishes the Persons who are Undertakers of these fraudulent Sales; it punishes the Printers and Publishers of Advertisements of such Sales; it proceeds to punish those who shall deliver out



out the Tickets, and thus far it seems confined to Lotteries; but then it proceeds farther, which is to hinder any Sort of Sales of Houses, Goods, or Valuables by Way of Gaming, and the Words are very strong, by any *Game, Method, or Device depending upon, or to be determined by any Lot, or Drawing, whether out of a Box, Wheel, or by Cards, Dice, or by any Machine, Engine, or Device of Chance whatever.*—The fair Method of buying and selling only is that which is to be followed; Raffling, drawing Lots, or Cards, or any Method whatever by Dice are within this Clause, and the Person or Persons who set the same on Foot, are undoubtedly within the Meaning of the Act, and subject to the Penalty.

*The Act then proceeds to declare the Games of Ace of Hearts, Pharaoh, Bassett, and Hazard to be Games, or Lotteries by Cards and Dice within the Intention of the Act, and subjects such as shall maintain, or keep such Games, to the same Penalties which by the Act are inflicted on Persons setting up and keeping Lotteries, to be prosecuted and convicted in like Manner.*

These Games had been found either to be notoriously fraudulent or excessive; the three first are of the former Kind, attended with great Odds to those who were the Proprie-

tors, though they carried a specious Shew of Advantage to ignorant Adventurers; and the last being publickly played for immense Sums of Money, was the Occasion of ruining many ignorant young People who were not skilful in Matters of Chance; besides which, false Dice were often brought into the Company by Sharpers, who thereby robbed the unskilful and undiscerning of their Substance.

*It then proceeds to lay a Penalty of 50l. on Adventurers in such Schemes or Sales, or Ployers at the said Games, to be recovered in like Manner.*

Here it is to be observed, that every one who shall take any Tickets, or be concerned in such Lotteries, every one that shall be concerned in such Sales, either Raffles or other Devices for purchasing Valuables other than by fair buying or selling is liable to the Penalty.

*The Act then proceeds further to discourage these Undertakings, by making such Sales void, and the Houses, Lands, or valuable Goods gained thereby, forfeited to any Person or Persons who shall sue for the same, by Action, Bill, Complaint, or Information in any of His Majesty's Courts of Record, or at the*

*the Assizes of the County, &c. where the Offence shall be committed.*

It might reasonably be thought that there was no Encouragement after this Clause, as the Gain ceases, especially as the Method of Recovery is so easy.

To take away all Hardship and guard against Partiality of any Magistrate, an Appeal is given from Convictions before Justices of the Peace to the Quarter Sessions upon giving reasonable Notice to the Prosecutor, and entering into a Recognizance with two sufficient Sureties to prosecute the Appeal at the next Quarter Sessions after bringing such Appeal.—And directs further, that the same shall be then heard and finally determined, and in Case that the Judgment shall be affirmed, the Appellant shall pay treble Costs.

There is likewise a Proviso, that the Conviction shall not be vacated for Want of Form in Case the Facts are proved, nor removed into the King's Courts at Westminster until they have been proceeded upon at the Quarter Sessions; and also that no Certiorari shall be issued, to remove the Record from the Quarter Sessions, or any Order or Proceeding made by the Quarter Sessions until the Party, against whom the Conviction shall be made, shall enter and find two sufficient Sureties



*Sureties to be bound to the Prosecutor in the Sum of 100 l. with Condition to prosecute the same with Effect, within six Calendar Months, and to pay unto the Prosecutor treble Costs in case the Order or Conviction be affirmed.*

These three Provisions take away and remove all Objections to the Method of Prosecutions on this Act; and in the first Place it protects Persons accused against Partiality by giving the Appeal, it then protects Prosecutors from being surprized by Appeals, by directing proper Notice, and provides against wearing them out by Delays, by compelling the Appellant to bring the Appeal on at the next Quarter Sessions, and appoints it there to be finally heard and determined; and in order that no vexatious Appeal might be brought, it gives treble Cost against the Appellant in Case the Conviction be affirmed

But this seems to relate entirely to the Fact for the next Proviso, where it says, the Conviction shall not be vacated for Want of Form, in case the Facts alledged in the Conviction are proved; for it gives a Power to bring a *Certiorari* upon certain Conditions. — This *Certiorari* seems to me to be in order that the Courts may judge of the *Law only*, for the Act is plain, that the Form and Matters of Fact, after they have past the Sessions,

are

are incontestible ; and here the Appellant is to take Care, for if the Courts at *Westminster* should affirm the Conviction, he must pay treble Cost, for which he is to give sufficient Security before he removes the Conviction.

*The next Clause subjects Offenders against the Act, who shall not have sufficient Goods and Chattles whereon to levy the Penalty, or who shall not pay the Penalties, or give Security, to Imprisonment in the common Goal for the Courts, &c. for any Time not exceeding six Months,*

The only Remark I shall make on this Clause is, that the Imprisonment is only of such who shall not have sufficient Goods ; so that one that has such shall not save them by submitting to Imprisonment.

*Then follows a Clause whereby the Magistrate is made liable to a Penalty of 10l. for Neglect, or Refusal of doing his Duty required by the Act, to be recovered by Act or Bill, Complaint, &c. with full Cost, one Moiety to the Prosecutor, and the other to the Poor of the Parish, or Place where the Offence was committed. This Punishment of the Magistrate is for Neglect, or Refusal ; so that Prosecutions of this Kind may be carried on without any Hindrance whatever.*

*The*

*The next Clause is a Proviso, that these prohibited Games may be played within any Palace wherein His Majesty shall reside, and concludes with a Limitation of Time for Prosecutions against any one for any Matter, or Thing done in pursuance of the Statute to three Calendar Months next after the Fact committed, and not afterwards; confines these Actions to the County, or Place where such Action shall arise; directs that Defendants shall plead the general Issue, and give the Act and the special Matter in Evidence; and upon Non-suit of the Plaintiff, Discontinuance of his Action, or if upon Demurrer, Judgment shall be for the Defendant, then he shall have treble Costs.*

This is the Statute made in the twelfth Year of King George II. by which it was expected, that a Restraint had been put upon this Vice; but it soon appeared, that Mankind was still strongly infatuated to their own Ruin, the Game of Passage was set up, and carried on in the most excessive Manner; wherefore in the Sessions following, the Legislature being determined to pursue the Design of stopping excessive Gaming in every Respect, and having for that Purpose taken Horse-racing under their Consideration they made farther Provisions for that Purpose, which Statute I am now to consider.

The



The Act is intitled *an \* Act to restrain and prevent the excessive Increase of Horse-Races, and for amending an Act made in the last Sessions of Parliament, intitled an Act for the more effectual preventing of excessive and deceitful Gaming.*

This Act was calculated for two Purposes, to hinder Fraud and Idleness, and mend the Breed of Horses; the first Part is what I shall take Notice of, the other concerns not this Purpose. *It begins with enacting that after 24th June, 1740, Horses shall be entered by their Owners and in their Names, and no Man to enter more than one for one Plate or Prize; and lays a Penalty on Offenders that shall do otherwise, viz. forfeiting such Horse or Prize, or the Value thereof.*

This Clause seems designed to prevent Fraud between those who are concerned in those Diversions; and as it concerns only those, I shall say nothing more of it.

The next pursues a more noble Design, which was the hindering Races for small Prizes, such as Saddles, and such like, which were set up at Inns, in order to draw idle People together, from which great Inconveniences arose, and many Families were ruined.

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\* 13 Geo. II.

*It therefore enacts, that after the same Day, no Plate, Prize or Sum of Money, or other Thing shall be run for by any Horse, Mare, or Gelding, or advertised, published, or proclaimed to be so run for, unless such Plate, &c. shall be of the real and intrinsic Value of 50l. on Pain of forfeiting 200l. for every such Running, and 100l. by any Person for printing, publishing, or advertising, or proclaiming any Advertisement, or Notice of the Plates, Prize, &c. under such Value; and in another Clause that Matches shall be run at Newmarket and Black Hambleton only for any Sum less than 50l. and in case any Match shall be run at any other Place for a less Sum, they shall incur the same Penalty: These Penalties to be recovered by Act, Bill, Complaint, or Information; one Moiety to the Informer, and the other to the Poor of the Parish; except in the County of Somerset, where the one Moiety is to go for the Benefit of Bath Hospital.*

These Clauses are very strict, and restrain all little Races and Matches, and keep this Diversion for the Use of those whose Circumstances can bear it.

There is in the Act an Exception for annual Plates or Prizes issuing out of Lands charged for that Purpose.

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This is all of the Act (that I shall confider) relating to Horse-Races; but the Legislature took this Opportunity to amend the Law made the Year before, for preventing excessive and deceitful Gaming.

Upon Suppression of the Games mentioned in the former Act, new Inventions were set up, and a Game called *Passage* with Dice, was publickly played to as great Excess as Hazard; for which Reason,

*It was enacted, that the said Game of Passage, and every other Game, and Games invented, or to be invented with one, or more Die, or Dice, or with any Instrument, Engine, or Device in the Nature of Dice, having one, or more Figures, or Numbers thereon, Backgammon and the other Games then played upon the Backgammon Tables, only excepted, should be deemed Games and Lotteries within the Act of the former Year; and Offenders by playing at such Games, to be punished as by the said Act is directed.*

By this Clause there is total Prohibition of Dice, except as in the Clause, and it is worded so strong that no Invention of the same Nature can be carried on with Impunity.

These Laws were thought to be effectual, but it soon appeared that the Vice of exces-



five Gaming still met with Encouragement, and the Wits of Sharpers were set to work, either to invent new Games or to find Means to evade the Laws I have already mentioned. This caused another Act of Parliament to be made in the \* 18th Year of his present Majesty's Reign, to prevent these Practices, by which after reciting the Inconveniency of this Vice, it takes Notice, *that a pernicious Game called ROULET or Roley-Poley had been invented, and therefore enacts, that Keepers of Houses, Rooms or Places for playing this Game or any other Game with Cards or Dice already prohibited by the Laws of this Realm, shall incur the Penalties of the Statute of the 12th Year of his Majesty's Reign before mentioned, and that Players at the said Games shall incur the same Penalties as Players at Games prohibited by the same former Act.*

This Game of ROULET was of the same Sort with the Ace of Hearts, and only differed in the Form of the being played with a Ball, and the Odds against the Adventurers very little, there being a Bank kept, and tho' it seemed to be a Lottery within the Act, yet the Legislature thought fit to explain or ascertain it.

But the chief Design of the Act, was not to suppress this Game only, but to provide  
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\* 18. G. II. cap. 34.

in other Cases to make the Laws in this Case effectual, for a Defect was found in the Statute of the 9th of Queen *Ann*, which this Statute took Care to supply.

*It therefore enacts, that a Court of Equity should have Power to make Decrees against Persons winning ten Pounds, (who were obliged to discover upon Oath) for the Repayment of such Sums in such Manner as that Act directs, and to enforce the Decrees in the same Manner as in other Cases in Suits on Equity.*

This was certainly a Defect in that Law, and it is now remedied, the Method is too well known to want Explanation.

Another Difficulty arose in Convictions on the Statutes of the 12th and 13th of the present King \*, which was to get Evidence to prove the Facts.

*It therefore gives Authority to the Magistrate before whom any Information is laid, by Virtue of the said Acts to summons any Person or Persons whatever, other than the Plaintiff accused, to appear before such Magistrate to give Evidence for the Discovery of the Truth of the Matter in the said Information contained; and in case of Neglect or*  
*Refusal*

\* 12 & 13 G. II.

*Refusal to appear, or refusing to give Evidence, or shall give false Evidence, the Person so summoned shall forfeit fifty Pounds to be levied by Distress, and sell off the Offender's Goods by Virtue of a Warrant under the Hand and Seal of such Magistrate, and for Want of sufficient Goods the Offender is to be imprisoned for six Months, and further declares every Person capable of being Witness but the Parties, Plaintiff and Defendant.*

These Provisions I think remove all Difficulties of Prosecutions of this Kind, and if strictly regarded and put in Execution will certainly make these Laws effectual. For it is to be observed, that Servants, Waiters, Standers-by and Players themselves are liable to be summoned and obliged to appear, and give Evidence.

But to make this Act more effectual, it farther takes away the Privilege of Parliament from Offenders of this Kind.

Here is every Difficulty removed, and the Law open, so that no Man need be under any Apprehension of failing of Success in Prosecutions of this Sort.

By this Act also a farther Provision is made for the Punishment of such who shall win or loose above ten Pounds at one Sitting, or 20 Pounds



*Pounds in 24 Hours, such being convicted by Indictment either before the Justices of the King's-Bench, or Assize, Goal-Delivery or grand Sessions, shall be fined five Times the Value of the Sum won or lost; which Sum, after deducting the Charges of Prosecution, as the Court shall think reasonable to be allowed to the Prosecutor and Evidence, shall go to the Poor of the Parish where the Offence was committed.*

Here it is to be observed, that both Winner and Loser are to be punished, and that excessive Gaming was the Crime designed to be hindered by the Legislature.

The Act after this provides, that any one who shall discover and convict another of offending, the Discoverer shall be pardoned and indemnified from all Penalties, by Reason of any such Offence, (in case the Person had not been before convicted) and admitted an Evidence to prove the same.

I have now gone through this Act as far as is Necessary for this Purpose, and have taken Notice of the several Laws in being, for preventing this pernicious Practice. I shall now proceed to consider what may be the Causes that these horrid Nufances are still complained of, and Offenders of this Kind not punished as they ought to be.

From

From these Acts it appears, that the Offences are known, the Penalties declared, and the Method of Prosecution made easy.

For Instance, the Statute of 33 *H. VIII.* punishes the Keepers of gaming Houses, gives Magistrates Power to enter those Houses. The Laws made in the present Reign enforce this Law by severe Penalties against such, and points out a clear Method of Conviction ; this obliges the Magistrate to do his Duty, and gives Encouragement to Informations ; nay they go farther, they remove the Difficulties of proving the Offences, and the Method of Prosecution is made certain and easy, how comes it to pass they are not put in Execution ?

In like Manner the Statute of 33 *H. VIII.* provides against Haunters of these Houses, and punishes them ; these are enforced also by the late Statutes, and Prosecutions are made as easy and as much encouraged.

The Difficulty that offers itself at this Time is the Odium of being an Informer, and the Plea for the Magistrates Neglect of his Duty is only to be accounted for on that Account.

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To obviate this Objection, the Informer's Name in the Information may not be the Person who is really the Informer, but another Name made Use of for the Purpose ; and there are enough who will admit of their Names on this Occasion ; for Example, a Person goes to a gaming House and sees gaming there, he states the Fact and sends it to the Magistrate in the Name of another, with the Names of some present where the Fact was committed. The Magistrate issues his Summons for the Persons who were present, and proves the Facts by these Witnesses. The real Informer is unknown, nor is there Occasion he should be known if the Fact be proved ; if this be sufficient this Difficulty is removed.

Magistrates in some Cases are entitled to enter suspicious Houses, *there have been some few Instances of this Kind ; I hope there will be many more.*

I wish I could not give another Reason why these Laws failed, but I fear it is too well known, that Magistrates are *Men*, and are apt to be influenced by *Party* and *Affection* as others, they have likewise *Expectations*, and *Interest* frequently is found to be a Part of their Composition as well as in other Men.

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Have



Have Prosecutions been stopt on these Accounts?

If a Magistrate sees the Keeper of a notorious House of this Kind *carested* by his Superiors, a Man who has no other Merit but being *infamous*; a Man who has not only raised his Fortune upon the Plunder of Mankind, but who has had Favours done him on that Account by those in Power, will not such Magistrate think such a Person above his Rank, or will not he avoid entering the House of such a Man lest he draw down the Frowns or lose the Favours of his Superiors for doing his Duty? I fear there are too many of this Sort of Magistrates; and on this Account the most notorious Houses escape Punishment. I cannot help observing that there is nothing that gives greater Encouragement to Houses of this Kind than the Countenance the Keepers of them receive from Persons of Fashion: *Who have greater Intimacy shewn them?*

But I wish I could not give too good a Reason for this Countenance to these People, *they know their Secrets*, they have it in their Power to convict them of Offences of these Kinds, and by being useful to them in their Vices are become their Masters. If this was not the Case, would any Man who values his Reputation be seen *consulting, aiding, counte-*

*courtenancing, and heaping his Favours upon one who is notoriously known to be an Harbourer of Thieves.*

These are some of the many Reasons why these Laws prove ineffectual. Let me now point out what a good Magistrate, what Persons in high Stations, and what every honest Man are bound in Conscience to do on this Occasion.

A good Magistrate has Power and Authority to enter all Houses of this Kind in Cities and Boroughs; the Law says, *such as he shall have Cause to suspect, weekly, or at least monthly.* — Let him do this without Favour or Affection; let him not regard *who* he finds in such Houses, but proceed as the Law directs, he will then do his Duty.

In the City of *Bath* this pernicious Practice was grown to an enormous Height, the Keepers of those Houses were carested by People of great Rank and great Fortune, Persons who had great Influence over Tradesmen, and upon whom the Magistrates of that City had no small Dependance; this made these People think themselves secure, and thought they were not in Danger of being punished, or suppressed; but to the Honour of the Magistrates, they soon found themselves mistaken; the Magistrates did their

Duty, and that most abominable Scene of Gaming and Fraud was totally suppressed.

From this Example, I hope those of the greater Cities will take a Pattern, and they will soon be convinced that the Event will be the same.

Another Piece of Advice will not be amiss to the Magistrate, that he should give all the Assistance he can to such who will take the Trouble of carrying on Prosecutions of this Kind; that he will exert himself and not admit of (much less be a Party) a Composition with Offenders of this Kind, let their Rank be never so great; the greater the Offender the greater the Criminal, and the more notorious the Punishment the more Benefit will the Publick receive from the Prosecution.

The last Piece of Advice I shall give the Magistrate is, that he never countenances Assemblies of this Kind, by gaming himself, nor being present with others that do; but at all Times do every Thing in his Power to discountenance and suppress them.

The Magistrate (it is certain) has a great deal in his Power, but the *great Minister of State can do much more* to put a Stop to this Practice.

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It is to be supposed, he had great Influence in the making of these Laws ; he is not to stop here, but to lend his Assistance towards making them effectual. — It is therefore to be hoped he will in the first Place, countenance the Magistrate in the doing of his Duty.

What greater Discouragement can be given to the Execution of these Laws, than the countenancing of Offenders of this Kind, by Persons of Dignity and Power. — Houses that are notorious, should never be frequented by them ; the Favours of the Court should never fall to the Shares of the Keepers of these Houses, they should never be admitted even to the Presence of those who have the Power to bestow them ; IF THEY ARE IN THE NEIGHBOURHOOD OF THE KING'S PALACE they should be rooted out ; but if on the contrary Persons of this high Rank should associate with Haunters of these Houses, should enter themselves of Societies kept in these Houses, should be present and join in the excessive Gaming carried on in these Houses, should heap Preferments upon the Keepers of these Houses, what must be the Consequence ? The Magistrates will have too great Reason to think such Houses and their Keepers out of their Reach, and be deterred from putting the Laws in Execution against Offenders of this Kind.

I will therefore hope, that the present *honourable, great Persons* who have the Honour of being near his Majesty, will take Care to remove NUSANCES of this Kind from the NEIGHBOURHOOD OF HIS PALACE; that if there be an House which has the Reputation of being notorious for Practices of this Kind, that no Minister of State will frequent it; that if the Keeper of such House enjoys any beneficial Employment from the Crown, that he be *suspended* till the Publick is satisfied of his Innocency, or *totally deprived* if he be guilty.

I am now to apply myself to every honest Man, let his Station be what it will, and of him it is expected, that he should in the first Place, avoid Houses of this Kind; that he should do his Part to suppress them, let him remember, an Informer of this Kind cannot be odious; let him assist the Magistrate, and if he has it in his Power, endeavour to put these Laws in Execution. If every one of these in their several Stations will do their Parts the Mischief must cease.

I have now done with what relates to the Execution of these wholesome Laws; but I cannot forbear taking Notice of some Objections that have been made to them, and  
which

which I think I ought in some Respect to answer.

It has been said, that the Stopping of publick Play, has given Encouragement to private Play, and that has been of more fatal Consequence.

The Mischiefs of publick Play were notorious; how many innocent and unwary young Gentlemen have been drawn in by seeing others play, who never would have thought of it otherwise? How many have been encouraged with the Luck of the Fortunate in publick Gaming-Rooms, without casting their Eyes upon the Losers.

Another Objection to publick Play is notorious; the Table is free for all who shall come, and how often is it frequented by some who perhaps brought the Money they play with out of the Pocket of another he has robbed upon the Road; many Instances of this Kind have happened, and surely, no one can think, Acquaintance of this Kind fit for the Sons of Persons of the first Rank in the Kingdom.

Private Play cannot be attended with Inconveniences of this Kind; for Nobody has a Right to enter another Man's House without he is asked, nor can it be supposed, that  
Persons



Persons of dissolute Characters can be admitted into the Houses of any but their *Associates*.

But private Play is not exempted from the Penalty of this Act; and as every Servant will have it in his Power to make Informations, few Masters will care to put themselves in their Power.

I must confess, that Gaming, and, I fear, excessive Gaming, is now most notoriously carried on in many private Houses. That sacred Day in which our Ancestors employed themselves to shew their Gratitude to their great Creator, is now most scandalously abused: Routs and Assemblies are carried on by Persons of the highest Rank: That religious Decency, which was an Example to the lower Sort, seems greatly to be laid aside; and if the Example of Masters and Mistresses is to influence the Servants, I fear they must think they are not *bound by Religion*, and then it can't be surprizing if they soon fly in the Face of their Masters.

But I am not at all doubtful, but our Laws are sufficient to put a Stop to these Practices; and an Example of this kind would be of no little Service to the Publick.

A seventh Part of our Time is but a small Return for the other six ; and if Persons of Rank would but consider, that the greater their Fortune, the more Influence has their Example ; the greater the Blessing, the greater ought to be their Return to God.

But I shall say no farther on this Subject, — hoping that Reflection will be sufficient to put a Stop as to Practices of this kind.

I am now to consider the Disadvantages of excessive Gaming, and the Risque that the Gamester runs, and hope this may be one Motive to dissuade him from the Practice.

If a Man is guilty of this Vice, it is for Profit ; and that he is not sure of. If he wins, it is not his own, 'tis forfeited ; if he encumbers his Estate, his next Heir is entitled to it ; he subjects himself to his Companions, to his Servants, to Strangers, to those who are obliged to inform, if called upon ; how then can he be easy ? The Risque is great, and his Anxieties can't be less ; what then can be his Inducement ?

Excessive Gaming has also another Inconveniency, which frequently happens, I mean Quarrels at Play : These are most exemplarily punished by the Law ; and yet few can

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forbear them, especially if they think themselves ill-used, which most Losers are apt to do.

Excessive Gaming, from what has been said, appears to be most detrimental to the Publick, most dangerous to those that practice it, and not attended with the least Advantage.

I hope I have shewn the Laws to be sufficient to put a Stop to this Practice; and that they will be put forthwith in Execution. This is all I shall trouble the Publick with at this Time, and I pray God it may have an Effect:

But if after all, I should be told, that new Games will be invented, as has been experienced in the Games of *E. O.* and *G. S.* I have this Answer, The Legislature must exert itself, and as often as that Case shall happen, new Laws must be made, and, if it shall be found necessary, all Games of Chance whatever must be prevented: Nor can I see any Reason against it, for it is the Games of Skill only are Amusements; and, if the Legislature are in earnest, I would recommend the following Clause, with which I shall conclude this Treatise.

*That*



*That from and after the  
no Game at Cards or Dice, or with any  
Wheel, Engine, or Device, consisting of Let-  
ters, Marks, Numbers, or Figures, already  
invented, or hereafter to be invented, the  
Success of which is solely depending upon  
Chance, shall be played at, but*

*That from and after the                      Day of  
the Games of E. O. and G. S. and also all  
other Games already invented, or to be in-  
vented, to be played at by any Table, Wheel,  
Engine, Device, or Instrument, marked with  
Images, Letters, Numbers, or Figures, or  
with any other Marks whatever, whereby the  
Event is to be determined merely and solely  
by Chance, shall be permitted or allowed; but  
that such Games shall be deemed and taken  
to be Lotteries within the Extent and Mean-  
ing of the Statute made in the Twelfth Year  
of his present Majesty, entitled*

*And all and every Person or Persons setting  
up and keeping Houses or Places for such  
Games, and also every Person or Persons  
playing at such Games, shall be liable to  
the Penalties, and to be prosecuted in such  
Manner as the said Act directs, and the  
Penalties employed and disposed of to the  
like Uses as the Penalties in the said Act  
are employed and disposed of.*

*F I N I S.*

